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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of Section 4(g)
of the Cable Television
Consumer Protection Act of 1992

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MM Docket No. 93-8

To: The Commission

**OPPOSITION TO REQUEST FOR EXTENSION
OF TIME TO SUBMIT REPLY COMMENTS**

Silver King Communications, Inc. ["SKC"]^{1/}, by its attorneys, hereby opposes the Request of the Center for the Study of Commercialism ["CSC"], for an extension of time to submit reply comments [the "Request"] in the above-captioned proceeding. As demonstrated herein, CSC fails to show how the public interest would be served by such an extension. Indeed, any extension of time would be contrary to the public interest and is unnecessary. The Commission must deny CSC's Request.

Background

The Commission initiated this proceeding pursuant to Section 4 of the Cable Television Consumer Protection and Competition Act of 1992^{2/} which added Section 614(g) to the Communications Act of 1934, as amended. Section 614(g) requires the Commission to determine whether home shopping stations are serving the public interest, convenience and necessity as a prerequisite to their

^{1/} SKC is the parent of the licensees of 12 television stations all of which carry the programming of the Home Shopping Club. SKC submitted comments in this

qualification as local commercial television stations entitled to mandatory cable carriage rights under the 1992 Act.

On January 28, 1993, the Commission issued its Notice of Proposed Rulemaking^{3/} in this proceeding, setting March 29, 1993 and April 13, 1993 as the deadlines for filing comments and reply comments, respectively. CSC now requests that the deadline for filing reply comments be extended two weeks through April 27, 1993.

An Extension of Time Would Be Contrary to the Public Interest

The Commission does not routinely grant extensions of time,^{4/} and will do so only upon a showing that the delay would be in the public interest.^{5/} In its Request, CSC states that the reply comment deadline must be extended because 1) the comments are lengthy; 2) there has been a delay in the availability of the comments at the FCC; 3) forthcoming religious holidays fall within the reply comment period; and 4) other parties are involved in litigation that "detract[s] from their ability to provide complete reply comments within the currently established schedule."^{6/}

What CSC does not realize is that its reasons for desiring an extension are by no means extraordinary but, in fact, reflect the daily practice of

3/ MM Docket No. 93-8, 8 FCC Rcd 660 (1993) ["Notice"].

4/ 47 C.F.R. § 1.46(a) (1992).

5/ See, e.g., Order Denying Request for Extension of Time to File Comments, MM Docket No. 92-298, DA No. 93-355 (Mar. 29, 1993).

6/ Request at 2.

law, and they do not justify an extension of the reply comment deadline. Moreover, CSC fails to show how its purported difficulties outweigh the substantial detriment SKC's home shopping stations and other HSN affiliates would suffer as a result of any extension. CSC's rather ordinary problems notwithstanding, an extension of the reply comment deadline simply is not in the public interest.

1. Any Delay in this Proceeding Will Prejudice Home Shopping Stations' Exercise of Mandatory Cable Carriage Rights.

Should the Commission find that home shopping stations are operating in the public interest (as SKC is confident that the Commission will so find), the 1992 Cable Act requires the Commission to qualify these stations as local commercial television stations for the purposes of mandatory cable carriage or "must-carry."^{7/} On March 29, 1993, the Commission released its Report and Order implementing the must-carry provisions of the 1992 Cable Act.^{8/} Under the rules adopted in that proceeding, "cable operators [are] . . . required to begin carriage of their complement of commercial must-carry signals no later than June 2, 1993."^{9/} If home shopping stations are to be fairly included in must-carry, therefore, the Commission must make its decision in this proceeding well before June 2, 1993. Otherwise television stations with home shopping formats may receive must-carry status only after cable systems have met their carriage obligations.

^{7/} Notice, 8 FCC Rcd at 660.

^{8/} See Report and Order, MM Docket No. 92-259, FCC 93-144 (Mar. 29, 1993).

^{9/} Id. ¶ 27 (emphasis added).

If CSC's Request is granted and the reply comment deadline is extended through April 27, 1993, it would leave the Commission only a little over one month before the implementation of must-carry to review the comments filed in this proceeding and adopt rules implementing Section 4(g). This may not provide the Commission sufficient time to issue its decision prior to June 2, 1993, when many cable operators will have already filled their complement of must-carry signals. Therefore, any delay in this proceeding would effectively preclude many if not all home shopping stations from exercising their rights to mandatory carriage until after the implementation date has already passed. Such a result clearly would be in direct contravention of Section 4(g)'s requirements and the public interest.^{10/}

2. An Extension of the Reply Comment Deadline Would Disrupt the Commission's Schedule for Meeting its Statutory Deadline in this Proceeding.

The 1992 Cable Act requires the Commission to determine by July 2, 1993 whether home shopping stations are operating in the public interest, convenience and necessity.^{11/} In implementing Section 4(g) and other provisions of the 1992 Cable Act, it is no understatement to say that the FCC has been and

^{10/} Although the 1992 Cable Act requires the Commission to complete this proceeding by July 2, 1993, Congress clearly contemplated that the FCC had the discretion to complete the proceeding before that date, and that once the FCC made its determination, that "those stations which it decides serve the public interest will be promptly certified as local commercial television stations and will be treated the same as other local commercial television stations under the mandatory must carry provisions of the act." 138 Cong. Rec. No. 127 (Sept. 17, 1992) (Remarks of Congressmen Lent and Markey).

^{11/} 1992 Cable Act § 4(g)(2).

is indeed operating on a "tight schedule." Contrary to CSC's assertions, extending the reply comment deadline in this proceeding undoubtedly would disrupt the Commission's schedule for meeting this and other statutory deadlines. Notably, although all face the same difficulties CSC cites, no other commenter in this proceeding has requested an extension, and CSC's purported difficulties simply do not warrant such a disruption.

3. An Extension of the Reply Comment Deadline is Unnecessary.

It is questionable whether CSC in fact requires extra time to file reply comments in this proceeding. CSC's counsel, Media Access Project, has been an active opponent of home shopping programming for the past seven years. It is familiar with the format and programming of SKC's stations, having unsuccessfully opposed several of their applications.^{12/} It has been aware that this proceeding would be forthcoming at least since October 6, 1992 when the 1992 Cable Act was passed and also has been fully aware of the Commission's proposals and the comment deadlines in this proceeding since January 28, 1993. In sum, Media Access Project is well-acquainted with the issues and parties in this proceeding -- its claim that it needs extra time to explore issues and arguments with which it is already familiar thus cannot be taken seriously. An extension of the reply comment deadline therefore is completely unnecessary.


^{12/} See, e.g., Silver King Broadcasting of Vineland, Inc., 2 FCC Rcd 324 (1986), recon. denied, Press Broadcasting Co., 3 FCC Rcd 6640 (1988), aff'd, Office of Communication of the United Church of Christ v. FCC, 911 F.2d 803 (D.C. Cir. 1990).

Conclusion

In view of the foregoing, an extension of the reply comment deadline in this proceeding is unnecessary and contrary to the public interest. The requested extension simply falls too close to the must-carry implementation date and the Commission's statutory deadline for completing this proceeding. Indeed, the delay created by such an extension would effectively moot any determination by the Commission that home shopping stations are entitled to must-carry because cable operators will have already filled their complement of must-carry signals by the time the Commission reaches a decision and would therefore seriously and adversely affect home shopping stations' rights. Finally, Media Access Project's "need" for extra time is questionable given its substantial familiarity and experience with home shopping programming issues. SKC respectfully urges the Commission to deny CSC's Request.

Respectfully submitted,

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April 5, 1993


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Opposition to Request for Extension of Time to Submit Reply Comments" was sent on this 5th day of April, 1993, via first-class, United States mail, postage prepaid, to the following:

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